

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

ROGER REEVES,)
v.)
Plaintiff,)
DSI SECURITY SERVICES, et al.,)
Defendants.)
CIVIL ACTION NO. 1:07cv616-MHT
(WO)

ORDER

This action is presently before the court on the plaintiff's motion for an order compelling defendant DSi to answer interrogatories (Doc. # 63) and his motion for an order compelling defendant American Building Company to answer interrogatories (Doc. # 64).

With regard to defendant American Building Company, plaintiff seeks to compel answers to four interrogatories previously propounded and to a “new” fifth question, apparently not ever presented to the defendant. It affirmatively appears from the attachments to the motions that defendant American Buildings responded to the four served interrogatories by objecting to all of the interrogatories and providing a partial answer to one interrogatory. As to defendant DSI, plaintiff seeks to compel answers to five interrogatories. DSI responded to the interrogatories by objecting and, subject to the objections, directing plaintiff to the affidavit of Eddie Sorrells, filed with its pending motion for summary judgment.

In his motions, plaintiff has presented no argument establishing that the requested

discovery is not subject to the objections made by the defendants, other than to state that the “[a]nswers should be Xerox copies.” (Motion, p. 1). With regard to “copies,” Plaintiff’s motion pertains to interrogatories, not to a request for production of documents. See Fed. R. Civ. P. 33, 34. The court may not compel production of documents which have not been the subject of a request for production of documents made in accordance with Rule 34. The same is true with regard to the new interrogatory added by plaintiff in his motion – the court will not compel defendant to answer the interrogatory when defendant has not been previously served with the interrogatory in accordance with Rule 33. Additionally, because plaintiff has failed to specify how the defendant’s objections and responses are improper or insufficient, he has not sufficiently framed a discovery dispute for resolution by the court. Finally, plaintiff has failed to certify that he has, in good faith, conferred or attempted to confer with opposing counsel in an attempt to resolve the discovery disputes without intervention of the court. This certification is required by Fed. R. Civ. P. 37(a).

For the foregoing reasons, it is

ORDERED that the motions to compel (Docs. ## 63, 64) are DENIED.

DONE, this 10th day of January, 2008.

/s/ Susan Russ Walker
SUSAN RUSS WALKER
UNITED STATES MAGISTRATE JUDGE